

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF U.S.V.I.

In Re:

Attorney's Fees in Chapter 13 Cases

General Order No.: 05- 0001

Chapter 13

Debtor(s)

ORDER

Upon the request of the Chapter 13 Trustee and after consider the nature of the legal services required in a non-business Chapter 13 case, and the procedural benefits to the Chapter 13 Program in the United States Virgin Islands, the Court enters the following order establishing for those cases a flat fee cap for debtors' attorneys compensation without the need to file a detailed accounting of cost, expenses and the time spend. This order applies to all cases filed after February 14th, 2005.

ATTORNEYS FEES

The Court may approve attorney's fees in non-business cases, as disclosed in the statement of compensation required by 11 U.S.C. §329 and Bankruptcy Rule 2016(b), with the Chapter 13 Plan Confirmation Order, without the need of a detailed application, if the fees, cost and expenses [excluding the filing fee] do not exceed \$2,000. Application in excess of this limit shall be file in the form herein ordered and will be reviewed under the "loadstar" analysis to determine the reasonableness of the total fee requested.

To be complete, the statement of compensation pursuant to Rule 2016(b) must include the disclosure of any fee paid in a prior Chapter 13 petitions related to the same debtor within the prior five (5) years from the new case filing date.

The Court has determined that the flat fee cap is reasonable compensation for the following responsibilities and legal services, performed and/or to be performed in a Chapter 13 non-business case:

- 1) Meet with the debtors to review their debts, assets, liabilities, income, and expenses.
- 2) Counsel the debtors regarding the advisability of filing either a Chapter 7, 12 or Chapter 13 case, discuss related Chapters procedures with the debtors and answer their questions.
- 3) Explain which payments will be made directly by the debtor and which payments will be made through the debtors' Chapter 13 Plan, with particular attention to mortgage and vehicle payments, as well as any other claims that accrue interest.
- 4) Explain to the debtor how, when and how to make the Chapter 13 plan payments. Particularly explain that the first plan payment must be made to the Trustee 30 days after the plan is filed.

- 5) Also explain that the Chapter 13 Trustee must collect a fee on any payment to creditors made as provided for in the confirmed plan, as determined by the United States Attorney General. (28 U.S.C. §586)
- 6) Provide debtors copy of this Order and explain them how any professional can be compensated from property of the estate, including the debtors' attorney, need to be reasonable and approve by the Court.
- 7) Advise the debtors of the requirement to attend the 341 Meeting of Creditors, and instruct them as to the date, time and place of the meeting.
- 8) Advise the debtors of the need to file any due tax returns prior to the 341 Meeting of Creditors.
- 9) Advise the debtors of the necessity of maintaining liability, collision and comprehensive insurance on vehicles and any other property securing a loan or lease.
- 10) Timely and correctly prepare and file the debtors' petition, plan, schedules and required statements.
- 11) Appear at the 341 Meeting of Creditors with the debtors.
- 12) Timely respond to objections to plan confirmation, and whether necessary, prepare an amended plan.
- 13) Prepare, file and serve necessary modifications to plans which may include suspending, lowering or increasing plan payments.
- 14) Prepare, file and serve necessary amended statements and schedules, in accordance with information provided by the debtors.
- 15) Prepare, file and serve necessary motions to sell real property when appropriate.
- 16) Review and object any claim invalid or improperly filed, when necessary, based on information and/or documentation provided by debtors.
- 17) Represent the debtors in motions for relief from stay and motion to dismiss.
- 18) Provide such other legal services as they may be necessary for the administration of the case before the Bankruptcy Court.
- 19) The compensation flat fee cap herein established does not include any legal services related to necessary adversary proceedings under Bankruptcy Rule 7001 et. seq.

FORM AND CONTENT OF AN APPLICATION FOR AWARD OF ATTORNEYS' FEES IN CHAPTER 13 PROCEEDINGS

Applications in Chapter 13 cases for attorneys' fees and/or expenses, for services exceeding the compensation flat fee cap herein established, for those related to services performed in an adversary proceeding, or for Chapter 13 Business case, shall comply with Bankruptcy Rule 2016, and in addition shall:

- 1) State separately the total amount of fees and expenses previously approved and the amount that has been disbursed by the Trustee;
- 2) Identify the time period during which the services, for which an award is sought, were rendered;
- 3) Shall include an attachment describing in detail and in chronological order the services rendered, grouped by Subject Matters (i.e. "Contested Matter related

to Objection to X's Creditor Proof of Claim"; "Contested Matter related to Motion for Relief of the Stay filed by X's Creditor"; "Meeting of Creditors"; or "Sale of Property Located at Blue Bay", etc.);

- 4) The description of services performed must include the time expended in increments of tenths of an hour (6 minutes increments: i.e. 6 min., 12 min., 18 min., 24 min., 30 min., 36 min., 42 min., 48 min., 54 min., 60 min., etc.);
- 5) The description of services must not be bundle with other services performed; each service must be described separately;
- 6) If more than one attorney or paralegal is authorized to provide services for the debtors, their services must be adequately identified and justified;
- 7) The description of the services performed or expenses incurred must be brief and short but with adequate information to assess its reasonableness;
- 8) Application shall be reviewed under the "loadstar" analysis to determine the reasonableness of the total fee requested.

APPLICATIONS OF \$500 OR LESS

When an application is required under this order, any application that seeks allowance of fees and expenses totaling \$500 or less may be approved by the Court without a hearing if (a) it is filed with the endorsement of the Chapter 13 Trustee and (b) after notice is given to all creditors and parties in interest, no objections are filed within 20 days from the date of the notice.

ATTORNEYS' CONTINUING DUTY OF REPRESENTATION

An attorney who represents a debtor in the Bankruptcy Court at the time a petition under Chapter 13 is filed, or when a converted to a Chapter 13 from another Chapter, has a continuing duty to represent the debtor in all proceedings in the Bankruptcy Court until the occurrence of the earliest of: (a) dismissal of the case; (b) closing of the case; or (c) the entry of an order allowing the attorney to withdraw from further representation of the debtor.

REDUCTION AND/OR DISGORGEMENT OF FEES

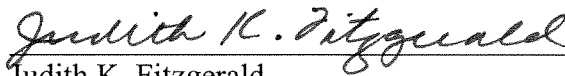
The Court reserves its prerogative under Bankruptcy Rule 2017 to evaluate the reasonableness of any compensation agreement between the debtors and their attorney, in particular cases, even when the compensation in question is within the compensation flat fee cap herein established. The failure to perform any act required by this order in a timely manner may result in a decrease or disgorgement of the fees previously allowed.

SO ORDERED

Dated at PITTSBURGH, PA this 8TH of ^{MARCH}~~February~~ 2005.

 3-8-05

Bernard Markovitz
United States Bankruptcy Judge



Judith K. Fitzgerald
United States Bankruptcy Judge